MONTANA LEGISLATIVE HISTORY

Chapter 481 19 95

Bill H _____ S 64 Original bill & history ____C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Feb 28	✓C	Hearing Date(s)	Jan 13	✓C
	Mar 15	✓C		Jan 20	✓C
		____C			____C
		____C			____C
Date Out	Mar 15	✓C		Jan 27	✓C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

SB 64 INTRODUCED BY GAGE

REVISE LAWS RELATING TO A YOUTH WHO POSSESSES OR ATTEMPTS TO PURCHASE AN INTOXICATING SUBSTANCE

BY REQUEST OF BOARD OF CRIME CONTROL

1/06	INTRODUCED		
1/06	FIRST READING		
1/06	REFERRED TO JUDICIARY		
1/06	FISCAL NOTE REQUESTED		
1/12	FISCAL NOTE RECEIVED		
1/12	FISCAL NOTE PRINTED		
1/13	HEARING		
1/23	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/24	2ND READING PASSED AS AMENDED	47	2
1/25	3RD READING PASSED	42	8
	TRANSMITTED TO HOUSE		
1/26	FIRST READING		
1/26	REFERRED TO JUDICIARY		
2/28	HEARING		
3/16	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/25	2ND READING CONCURRED	83	14
3/27	3RD READING CONCURRED	84	14
	RETURNED TO SENATE WITH AMENDMENTS		
3/30	2ND READING AMENDMENTS NOT CONCURRED	50	0
4/03	CONFERENCE COMMITTEE APPOINTED		
4/05	CONFERENCE COMMITTEE DISSOLVED AND HOUSE AMENDMENTS PLACED ON 2ND READING		
4/06	2ND READING AMENDMENTS CONCURRED	50	0
4/07	3RD READING AMENDMENTS CONCURRED	50	0
4/08	SIGNED BY PRESIDENT		
4/10	SIGNED BY SPEAKER		
4/10	TRANSMITTED TO GOVERNOR		
4/15	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 481		
	EFFECTIVE DATE: 10/01/95		

SB 65 INTRODUCED BY DOHERTY, ET AL.

REQUIRE AN ATTORNEY WHO IS NOT LICENSED IN MONTANA TO FILE AN APPLICATION AND PAY A FEE TO MAKE AN APPEARANCE IN A DISTRICT COURT OR THE SUPREME COURT IN MONTANA

1/06	INTRODUCED		
1/06	FIRST READING		
1/06	REFERRED TO JUDICIARY		
1/06	FISCAL NOTE REQUESTED		
1/12	HEARING		
1/12	FISCAL NOTE RECEIVED		
1/12	FISCAL NOTE PRINTED		
1/17	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/18	2ND READING PASSED AS AMENDED	34	14
1/19	3RD READING PASSED	34	14
	TRANSMITTED TO HOUSE		
1/26	FIRST READING		
1/26	REFERRED TO BUSINESS & LABOR		
1/31	HEARING		
1/31	TABLED IN COMMITTEE		
	DIED IN COMMITTEE		

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0064, as introduced

CRIPTION OF PROPOSED LEGISLATION:
Bill revising the laws relating to a youth who possesses or attempts to purchase an oxicating substance.

SUMPTIONS:
ne Control Division:
There were 5,163 youths arrested for the offense of possession of an intoxicating substance during 1993.
Revenues generated by fines for the first offense of possession of an intoxicating substance may increase due to increasing the maximum fine from $50 to $100.
Revenues generated by fines for the second offense may increase due to increasing the maximum fine from $100 to $200.
Revenues generated by fines for the third offense may increase due to increasing the maximum fine from $300 to $500.
Revenues generated by fines for the offense of attempting to purchase an intoxicating substance may increase due to increasing the maximum fine from $50 to $100.
Under present law, the increased revenue from fines assessed in Justice of the Peace courts is allocated 50% to the state treasurer (22.4% to the general fund) and 50% to county general funds. Any additional revenue from fines assessed in city courts will remain with local government.
There is inadequate information upon which to base a reliable estimate of the amount of increase in revenue. This is due to the lack of historical data on convictions and court discretion in establishing the amount of the fine for each conviction.

partment of Justice:
The Motor Vehicle Division will experience a workload increase for record keeping of suspension of driver licenses. The fiscal impact on expenditures is estimated to be minimal.
The Motor Vehicle Division does not keep records of the total number of possession offenses for each individual driver. Possession violations are recorded only upon notification from the courts. Notification also is received when a court suspends a driver license. The suspension is added to the individual's driving record. The division recorded 64 suspensions for possession in FY94.

ISCAL IMPACT:
nsufficient data for reasonable estimate.

FFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
nder present law, the increased revenue from fines assessed in Justice of the Peace ourts is allocated 50% to county general funds. Any additional revenue from fines ssessed in city courts will remain with local government. There is inadequate nformation upon which to base a reliable estimate of the amount of increase in revenue.

Dave Lewis 1-11-95
AVE LEWIS, BUDGET DIRECTOR DATE
ffice of Budget and Program Planning

1-18-95
DELWYN GAGE, PRIMARY SPONSOR DATE

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN BRUCE CRIPPEN**, on January 13, 1995, at 10:00 a.m.

ROLL CALL

Members Present:
Sen. Bruce D. Crippen, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Larry L. Baer (R)
Sen. Sharon Estrada (R)
Sen. Lorents Grosfield (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Mike Halligan (D)
Sen. Linda J. Nelson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Valencia Lane, Legislative Council
Judy Keintz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: SB 64, SB 66
Executive Action: SB 36, SB 69, SB 59

HEARING ON SB 64

Opening Statement by Sponsor:

SENATOR DELWYN GAGE, Senate District 43, Cut Bank, presented SB 64, which is here at the request of the Board of Crime Control. This bill deals with six sections of the Code.

Proponents' Testimony:

Gene Kiser, Director of the Board of Crime Control, stated that in 1993 the Board of Crime Control appointed a task force to

assess the effectiveness of Minor in Possession (MIP) enforcement and make recommendations for change. The recommendations of the task force were approved by the Board and are contained in SB 64. **Mr. Kiser** presented written testimony **EXHIBIT 1.**

Candy Kendall, Board of Crime Control, presented her written testimony, **EXHIBIT 2.** A representative from Highway Traffic Safety and **Ms. Kendall** presented this information to the Girls State meeting last spring. They talked to approximately 350 girls and the majority responded that increased fines may or may not have a deterrent effect depending on whether the child or the parent paid the fines. However, driving privileges had the most potent impact on all of them. **Ms. Kendall** provided the committee with a letter in support of SB 64 from Chief Michael F. Shortell, member of the Montana Board of Crime Control and Chairman of the Minors in Possession Task Force, **EXHIBIT 3.**

James Kember, representing the city of Billings, announced their support of SB 64.

Beth Baker, Department of Justice, testified that the Department worked with the MIP task force in putting together this legislation and supports their recommendations. They believe they have worked out a good method of dealing with driving convictions through the driving records, which is an important aspect of the bill. We need to get to the youths before they become problem drinkers. In the handout that **Ms. Kendall** provided, 22% of the students surveyed reported they had an excess of four drinks and drove in the month preceding the survey. We feel they are on their way to becoming problem drinkers and that is why the court should find out how many offenses they have committed. The bill does allow a provisionary license to be issued if the judge allows that.

Mary Ellerd, Executive Secretary of the Montana Juvenile Probation Officers Association, stated they generally support the bill, however, they do have some concerns.

Joe Connell, Chief Probation Officer of the Fifth Judicial District, a member of the task force, expressed his concern specifically with regards to the effort to move more toward the penalty of driving privilege. In some instances, this proposal tends to be much more severe with the young adults who are 18, 19, and 20 particularly with respect to incarceration for a six month period for failure to comply with the treatment program when, in comparison, the penalty for adults who may be contributing is a total of 10 days in jail. His concern is that this bill is moving more towards serious penalty instead of rehabilitation of the youth.

James Oberhofer, Member of the Legislative Committee for the Chiefs of Police Association for Montana, stated they stand in favor of this bill. During his 21 years in law enforcement, many juveniles slipped through cracks and ended up with serious

alcohol problems. They believe that the driver's license suspension will get the attention of many of the young people. He attended a meeting of the Sheriffs and Peace Officers Association and is also speaking for them in support of the bill.

Jerry Williams, Montana Police Protective Association, announced their support of SB 64.

Robert Runkel, Director of Special Education of OPI, commented that OPI participated in the task force which develop this legislation and supports SB 64.

Ken Taylor, Department of Corrections, Alcohol and Drug Abuse Division, was involved in this legislation, they support the bill. He submitted written testimony, **EXHIBIT 4.**

Rick Chambers, Chairman of the DUI Task Force in Jefferson County, stated that they stand in support of SB 64. They would like special attention paid to rehabilitation.

Steve Yeakel, Montana Council for Maternal and Child Health, spoke in support of this bill and stated that through their forums around the state they have heard from more than 500 Montanans about their views in respect to children and families.

Bob Gilbert, Montana Magistrates Association, announced they support the bill.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

SENATOR LORENTS GROSFIELD expressed concern regarding actions insurance companies would take for a first time offense. **Daryl Beckstrom, Chief of Records and Driver Control,** explained they currently record the first offense. In the language in the bill, if a person's record did reflect an increase in rate because of the first offense, the person could point this out to the insurance company and have their rate adjusted. **SENATOR GROSFIELD** further asked who would be receiving reports of these offenses. **Brenda Nordlund, Department of Justice, Records and Driver Control,** explained that the Motor Vehicle Division has comprehensive lifetime driving records for individuals. What they report to insurance companies and what they term the "motor vehicle record" includes only three years worth of history and it would not include this offense if it is a first time offense. The only time it would show is if someone asked for an individual certified driving record, which is a lifetime record. The insurance companies are just looking at the MVR.

SENATOR SUE BARTLETT asked if this bill only covered alcoholic beverages and not drugs. **Ms. Kendall** replied it covered all

intoxicating substances which would include substances beyond alcohol. **SENATOR BARTLETT** asked if the designated driver, who had not taken any intoxicating substances and was driving the vehicle when it was stopped, would be subject to the same penalties as the other people who had. **Ms. Kendall** answered that the task force had many hours of discussion on this issue and decided the designated driver would be subject to the same penalties. Their concern is the double message being presented to the youth. We have a law on the books which says it is illegal, under any circumstance, to possess or be in a situation where you can immediately possess alcohol. **Ms. Baker** stated this has been an issue for prosecutors and law enforcement officers for many years. Regarding possession, everyone at the kegger cannot be charged unless there is some evidence that they actually consumed or were in possession, either actual or constructive possession. Mere presence at the scene does not give rise to a charge under the statute, however, if there is some evidence that the person had dominion and control over the alcohol they could be charged. **SENATOR BARTLETT** asked for clarification of lines 21 and 22, page 4, of the bill which states that the person need not be consuming or in possession of the intoxicating substance at the time of arrest to violate this subsection. **Ms. Baker** stated that sentence was added to the statute in 1989 to address the situation where the child drops the cup as soon as the cops show up and it is intended to allow the charge to be brought if there is some evidence that the child was drinking or in possession of alcohol. **SENATOR BARTLETT** stated that when an adult is picked up for a DUI there are provisions for them to get a temporary license for work. Are there any provisions for either the minors under 18 or the young adults between 18 and 21 to have temporary licenses for work. **Ms. Baker** responded this is provided in Section 6, page 7, line 5, which adds 45-5-624. Subsection 9 states that the department may issue a restricted probationary license to any person who falls under this section. Unless the sentencing court says there is to be no probationary license, the court would be allowed to issue a probationary license. **SENATOR BARTLETT**, referring to page 6, line 14, questioned whether this bill deals with 18, 19, and 20 year olds as being treated as alleged youths in need of supervision. **Ms. Baker** answered that that subsection only deals with the defendant who was under the age of 18 when the offense was committed and is under the age of 21 when that person fails to comply with the sentence.

SENATOR LINDA NELSON questioned the minimum amount of drivers license suspension instead of leaving the length of suspension to the court's discretion. **Ms. Kendall** replied that it was put in so the judge could have a range to apply to certain circumstances. **SENATOR NELSON** questioned whether this would apply to the 18 to 20 year olds as well. **Ms. Kendall** replied that the judge does have the option of confiscating their license on the first offense. The judge has the option of issuing a probationary license for work or school.

SENATOR BRUCE CRIPPEN questioned whether the designated driver does not have control of the six pack found in a car. **Ms. Baker** stated that determination needs to be made in a case by case basis but it is certainly possible that the driver could be charged. She understands there will be a proposal introduced for a statewide open container law which would prohibit open containers in the car. **SENATOR CRIPPEN** questioned when the six month period of incarceration would be used. **Ms. Baker** remarked the six month jail sentence would only be allowed for a third or subsequent offense when the person is over 18. In researching this bill, she found instances of 23rd and 24th offenses for possession. The six month period was provided so the judge would have some discretion where the youth is old enough to be sentenced to jail. Often these are the youth who are providing alcohol to the younger kids.

Closing by Sponsor:

SENATOR GAGE stated we owe our youth the effort to try to shape them and keep them out of as much trouble as we can. Hopefully, this bill will help them as well as the law enforcement people in the state.

Additional exhibits handed out for SB 64, **EXHIBIT 5, 6, 7, & 8.**

{Tape: 1; Side: A; Approx. Counter: 43.7}

HEARING ON SB 66

Opening Statement by Sponsor:

SENATOR J. D. LYNCH, Senate District 19, presented SB 66. He stated that he had visited with many people in his town who couldn't understand for one minute why people should get three opportunities to commit some of the most dastardly deeds. In the state of Georgia, by public initiative and by a vote of 82 to 18 percent, over one million people decided that those of us in elective offices had not done enough when it comes to the "meanest of the mean". He believes the vote would be similar if we did the same thing in Montana. SB 66 is completely based after the Georgia initiative and lists the crimes covered by this bill. After being convicted a second time by a jury of their peers, they should not be able to be in society again. He feels the people of this state are saying enough is enough. This measure might involve up to eight individuals per year who will be sentenced to our prisons for life. This is a bill which is late in coming but its time has come. There will be more people in prison as a result of this bill, but they ought to be there.

{Tape: 1; Side: B; Approx. Counter: 8.5}

MONTANA SENATE
1995 LEGISLATURE
JUDICIARY COMMITTEE

ROLL CALL DATE 1-13-95

NAME	PRESENT	ABSENT	EXCUSED
BRUCE CRIPPEN, CHAIRMAN	✓		
LARRY BAER	✓		
SUE BARTLETT	✓		
AL BISHOP, VICE CHAIRMAN	✓		
STEVE DOHERTY	✓		
SHARON ESTRADA	✓		
LORENTS GROSFIELD	✓		
MIKE HALLIGAN	✓		
RIC HOLDEN	✓		
REINY JABS	✓		
LINDA NELSON	✓		

SEN:1995
wp.rollcall.man

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 1
DATE 1/13/95
BILL NO. SB 64

STATE OF MONTANA

DEPARTMENT OF JUSTICE
BOARD OF CRIME CONTROL

303 North Roberts - PO Box 201408 - Helena, MT 59620-1408

Joseph P. Mazurek
Attorney General

Phone (406) 444-3604
FAX (406) 444-4722

SB 64 : MINOR IN POSSESSION

SPONSOR: SENATOR DEL GAGE

Testimony: Gene Kiser
Montana Board of Crime Control
444-3604

In 1993 the Board of Crime Control appointed a task force to assess the effectiveness of Minor in Possession enforcement and make recommendations for change. Upon the completion of the task force's work a recommendations was made to and approved by the Board the language contained in SB 64.

Mr. Chairman, if I may, I would like to introduce Cathy Kendall, who was the staff person for the Task Force regarding it's work and recommendations.

STATE OF MONTANA
DEPARTMENT OF JUSTICE
BOARD OF CRIME CONTROL
303 North Roberts - PO Box 201408 - Helena, MT 59620-1408

Joseph P. Mazurek
Attorney General

Phone (406) 444-3604
FAX (406) 444-4722

EXHIBIT NO. 2
DATE 1/13/95
BILL NO. 64

SB 64 : Minor In Possession

Sponsor: Senator Del Gage

Testimony: Cathy Kendall
Montana Board of Crime Control
444-2947

Based on statements of concern from justice system professionals throughout the state, the Board of Crime Control appointed a task force in 1993. Its charge was to assess the effectiveness of Minor in Possession (MIP) enforcement and make recommendations for changes, if any deficiencies were found. The task force, chaired by Havre Police Chief Mike Shortell, was made up of representatives from law enforcement, the judiciary, juvenile probation, and treatment professionals. Staff from Crime Control, Highway Traffic Safety, and the Alcohol and Drug Abuse Division of Corrections & Human Services provided support for the task force.

SB 64 reflects the work of the MIP Task Force - a combination of reviewing statutes, data regarding arrests and dispositions, a survey of justice professionals, and the wealth of experience represented by task force members.

A survey was conducted in the summer of 1993 of Sheriffs & Police Chiefs (116), Chief Juvenile Probation Officers (20),Courts of Limited Jurisdiction (126) and treatment professions (37). Response rates varied from 76 - 95%; the high return lends validity to the results.

- A majority (70-95%) indicated that current MIP statutes are inadequate.
- 69% of law enforcement and 78% of treatment professionals felt that dispositions were too lenient.

DATA:

- **5,160** minors were arrested in 1993 for possession, an increase of 3,700 over the 1,485 arrested in 1983. Of those, about 1/5th (900), were referred to Youth Court.
- The gender split has consistently been about **70/30 for males and females.**
- 90% are arrests of white youth; 8% arrests of native americans.

The major intents of this legislation are to: **establish consistency, provide effective deterrents, and provide a method of tracking**.

1. Problem: no method of tracking repeat offenders.
proposal: require that all convictions be reported to Records & Drivers Control. 1st offense cannot be used for insurance purposes.

2. Problem: lack of consistent treatment because jurisdiction is shared between Youth Court and Courts of Limited Jurisdiction.
proposal: require same penalties irrespective of jurisdiction.

3. Problem: Current statutes have limited impact and questionable deterrent effect.
proposal: establish increased penalties for 2nd and 3rd offenses. Increase the fines for possession and attempt to purchase, use suspension or revocation of driving privileges, require community service and substance abuse education - if available.

Substantial consideration was given to the question of using driving privilege penalties for non-driving offenses. The majority of Task Force members, although not all, felt that fines alone were not effective. It was their judgment that the potential loss of driving privileges would have the most profound effect.

Concern for "multiple offenders" was raised repeatedly. Over the life of the task force, members frequently brought newsclippings showing citations for 5 and 6 Mip offenses. As there is no data system currently collecting the information, we have no way of judging how many of the 5,000+ kids cited during 1993 had more than one arrest. Until the court automation projects are implemented, using Records and Drivers Control Division is the most efficient, immediately available option. The Division has indicated that they can accomodate service.

Copies detailing the full deliberation of the Task Force as well as the complete response for the survey are available from the Board.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 3
DATE 1/13/95
BILL NO. SB 64

City of Havre, Montana 59501

POLICE DEPARTMENT

Michael F. Shortell, Chief of Police

406/265-4362

January 12, 1995

The Honorable Mr. Del Gage, Senator
Montana State Capital Building
Helena, MT 59620

Dear Senator Gage,

As a member of the Montana Board of Crime Control and Chairman of the Minors in Possession Task Force, I support fully Senate Bill 64 as written. I believe that Senate Bill 64 reflects the recommendations of the entire Minor in Possession Task Force.

As such, the Task Force and I thank you for all of your support and efforts pertaining to this legislation.

Respectfully,

Mike Shortell

Michael F. Shortell
CHIEF OF POLICE

EXHIBIT NO. 1/13/95
DATE
BILL NO. 64

Testimony Senate Bill No 64

My name is Ken Taylor, I work for the Department of Corrections and Human Services, Alcohol and Drug Abuse Division in the area of Prevention Programs. I have been with the division for almost five years.

From the beginning of the process which led to the development of this legislation, there has been involvement by the Alcohol and Drug Abuse Division. The Division oversees the state approved treatment programs which play an important role in the current system as providers of the educational course required of all minors found in possession of alcohol. We have been concerned, as have others, that current law does not provide adequate sanction for young people with multiple MIPs. A recurrent comment which I have heard from counselors throughout the state is, " what do you do with the kid who's been through the program so often they can give the lecture?" There are three aspects to this legislation:

consistent sanctions
escalating sanctions
tracking offenders

These are the issues identified by the MIP task force and these are the issues currently being mention by the thirty state approved treatment programs which serve each of Montana's fifty six counties.

The Alcohol and Drug Abuse Division is currently preparing its four year plan. As part of the planning process each county is asked to identify their top alcohol and other drug treatment and prevention issues. In this process counties are asked to include county commissioners, local law enforcement, education, social service and youth serving agencies. This local planning process is used to identify strategies and policies which then become part of the Division's plan for supporting local AOD services. The current planning documents were submitted by counties on or before December 31, 1994.

Problems in providing an adequate response to MIP's was consistently mentioned in these plans. Further, one or more of the specific strategies contained in this legislation was mentioned as a desirable response to the problem of multiple MIPs. Unfortunately under current law there is only a limited response available to communities.

As a policy response to the problem of underage drinking, this legislation fits within the overall approaches to prevention identified by the Center for Substance Abuse Prevention, the lead Federal alcohol and other drug prevention agency.

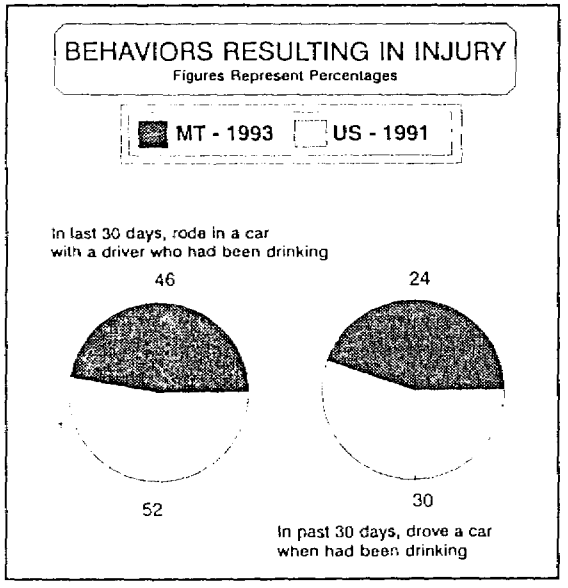
The committee might be interested to learn that Virginia enacted a law in 1989, commonly called "you use, you loose." Under Virginia's legislation possession of alcohol, whether in a motor vehicle or not, is cause for loss of a drivers license, as is unlawful possession of a firearm. If the offense involves purchase or possession, public intoxication or drinking on school property, the sanction for a first offense is loss of license for up to a year or until age 17, which ever is longer. The second offense results in loss of license for another year or until age 18, again which ever is longer.

There are 21 states which either currently have a "you use, you loose," legislation or are considering this legislation. These states include:

Alaska	New Hampshire
Arizona	Nevada
Arkansas	Oklahoma
California	Oregon
Florida	Rhode Island
Georgia	Tennessee
Illinois	South Dakota
Indiana	Utah
Missouri	Virginia
Montana	Washington
	Wyoming

This legislation offers to address a long term problem with our current approach to the problem of adolescent substance abuse. For that reason, the Department of Corrections and Human Services Alcohol and Drug Abuse Division supports it as part of a broad based approach to the problem of substance abuse by adolescents

'he 1993 Montana Youth Risk Behavior urvey reported that 46% of responding tudents rode in a car driven by someone who ad been drinking. In the same survey it was oted that 24% drove a car after consuming lcohol.


BEHAVIORS RESULTING IN INJURY
Figures Represent Percentages
MT - 1993
US - 1991
In last 30 days, rode in a car with a driver who had been drinking
46
52
24
30
In past 30 days, drove a car when had been drinking

In response to this information, the Montana Board of Crime Control is supporting amendments to MCA 45-5-624 to provide a more effective means of deterring youth alcohol use. The objectives are to enhance penalties for 1st, 2nd, and subsequent MIP offenses and to provide a means to track multiple offenders.

* *Increase fines proportionately for each subsequent offense*
* *Require community service if available*
* *Mandatory suspension of driver's license for 2nd and subsequent offenses*
* *All arrests are to be reported to Driver Record and Control Division of the Department of Justice*

These recommendations are presented through deliberation of the Minor in Possession Task Force, an ad hoc committee of the Board of Crime Control. Careful consideration of data and survey results formed the basis for their recommendation: 1993 Montana Youth Risk Behavior Survey, 1993 Montana Criminal Justice Professionals Minors in Possession Survey, Highway Traffic Safety data and 1993 Crime in Montana Report.

Your support of these amendments would enhance the ability of the Justice System in Montana to respond to growing concern about the level of alcohol misuse by Montana youth and its often tragic outcomes.

SENATE JUDICIARY
EXHIBIT NO. 5
DATE 1/23/95
BILL NO. SB64

MINORS IN POSSESSION:

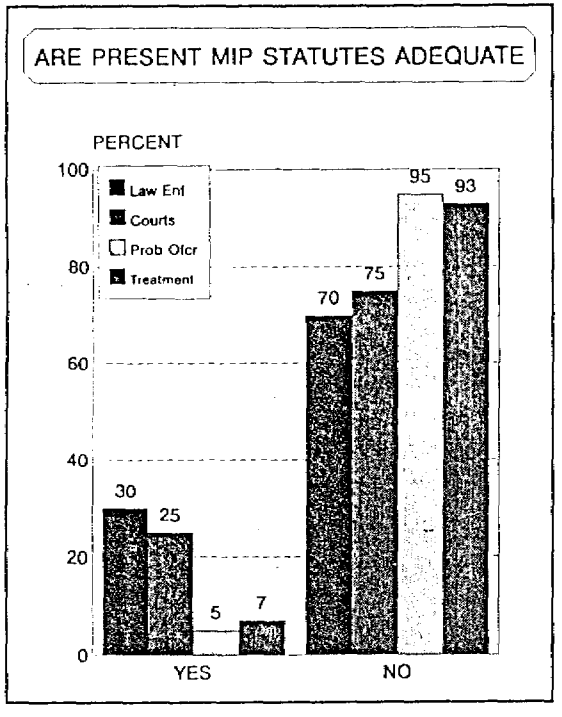
A PROBLEM FOR MONTANA

MBCC

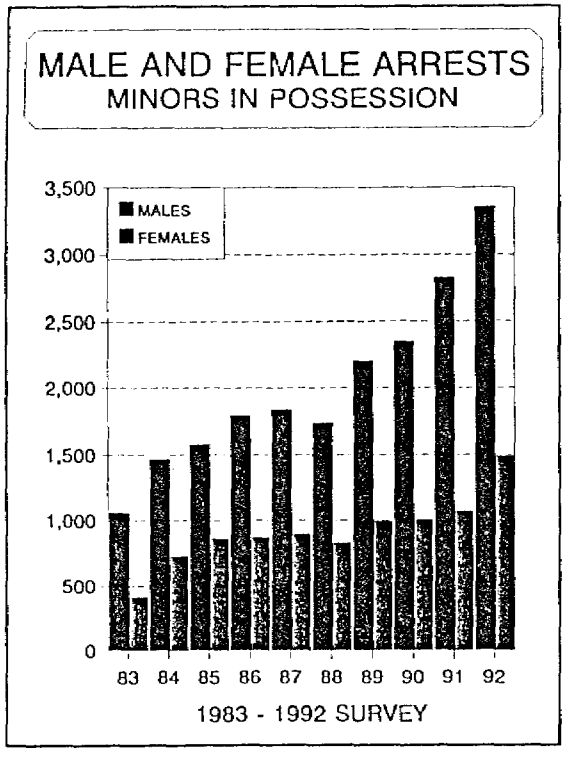
MONTANA BOARD OF CRIME CONTROL

We have a reason to be concerned about the use of alcohol by Montana youth!

A 1993 Montana Justice System survey shows that current Minor in Possession statutes are insufficient to meet the demand placed on law enforcement and the courts.



There is a general sense shared by justice system professionals that the number of youths committing multiple alcohol related offenses is increasing, however, there is no reliable method of tracking that information. In addition, existing statutes appear to have little deterrent effect on repeat offenders.

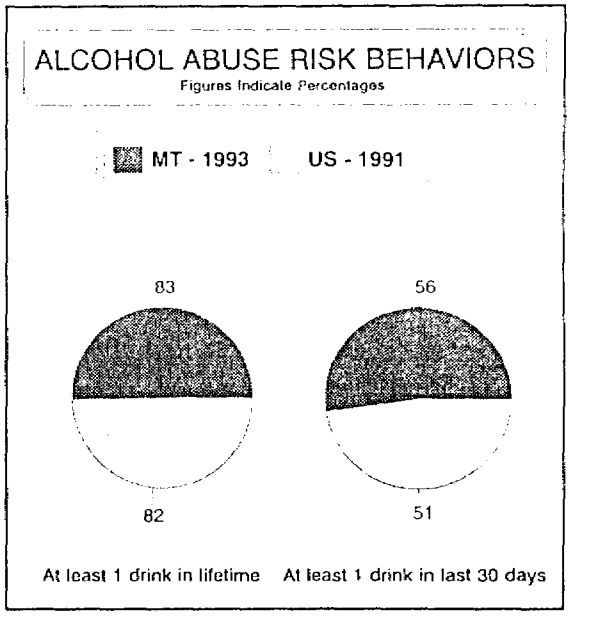


WHAT DO WE KNOW?

The 1993 Montana Youth Risk Behavior Survey revealed that 22% of the students reported that they had in excess of 4 drinks in a row on 3 or more days during the month preceding the survey.

56% of Montana youth report having at least one drink of alcohol during the 30 days prior to the survey.

During the last 10 years, over 10,000 Montana youth have been injured in alcohol-related crashes.



SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 10
DATE 1/13/95
BILL NO. SB 64

SB 64

January 12, 1995

#10

Senator Del Gage
State Capitol Building
FAX: 1-900-225-1600

H. E. L. P.
(Havre Encourages Long-Range Prevention)
306 3rd Avenue, Ste 205
Post Office Box 68
Havre, MT 59501
(406) 265-6206
(Phone & FAX)

Dear Senator Gage:

As the Executive Director for H.E.L.P. (Havre Encourages Long-Range Prevention), it is my pleasure to extend support for Senate Bill 64, on H.E.L.P.'s behalf.

H.E.L.P. is a 15-year old community-based prevention organization that services a five-county region, which includes the Rocky Boy's and Ft. Belknap Indian Reservations. Many of our programs target high-risk youth and their parents. Specifically, the mission and scope of the H.E.L.P. Committee is the prevention of Alcohol, Tobacco, and Other Drug Abuse (ATOD).

Our organization has compiled and up-dated yearly a five-county ATOD Needs Assessment document. This document supports the need for stiffer penalties and fines for Minors in Possession. The current approach is simply not working. If it were, minimally, we would not be experiencing such a high number of repeat offenders.

However, we have not been standing still. We are in the process of implementing a Youth Diversion program to handle many of these cases and look forward to having more to work with in convincing the youth that a minor in possession charge is nothing to make light of.

In closing, I would like to express my deep appreciation and support of those that took the time to research and write SB 64 -- the present handling of MIP's is inconsistent from one county to another, and ineffective. Please communicate our strong, wholehearted support of SB 64. I am pleased to provide additional information if needed at (406) 265-6206.

Sincerely,

Robin E. Morris
Executive Director

SENATE JUDICIARY
EXHIBIT NO. 7
DATE 1/13/95
BILL NO. SB 64

JOHN WARNER
JUDGE

PROBATION OFFICE
TWELFTH JUDICIAL DISTRICT
HILL COUNTY COURTHOUSE
HAVRE, MONTANA 59501

ROBERT J. PEAKE
CHIEF PROBATION OFFICER
(406) 265-5481 EXT 43

January 12, 1995

Senator Del Gage
State Capitol Building
FAX: 1-406-444-4722

Dear Senator Gage:

As the Chief Juvenile Probation Officer of the Twelfth Judicial District it is my pleasure to support Senate Bill 64.

It has been a concern of mine since I accepted the position of Chief that MIP's have long been improperly handled. The MIP's in our county have been shuffled between City Court, Justice Court, and also through my office when neither of the aforementioned could get an appearance from the youth, nor payment of any fine ordered.

It is indeed the right time to address this problem. I sincerely believe that the community has changed its ideas of tolerating and belittling the crimes that today's youth are committing. It is time that the courts, juvenile probation and the community hold these youths accountable for their actions. Stronger penalties and the ability to enforce them will reduce the care-less attitude among these youth; therefore, lowering the recidivism rate among this population.

I applaud your effort towards Senate Bill 64, and am behind this bill all the way.

If you need more information, please contact me at (406) 265-5481, #43. Thank you for your time and attention.

Sincerely,

Robert J. Peake

Robert J. Peake, Chief
Juvenile Probation

RP/tl

EXHIBIT NO. 9
DATE 1/13/95
SB NO. SB 64

MINORS IN POSSESSION

TASK FORCE REPORT

Presented to:

MBCC

MONTANA BOARD OF CRIME CONTROL

1993

The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

(bound report)

Department of Corrections and Human Services
Alcohol and Drug Abuse Division

Department of Justice
Highway Traffic Safety Division

DATE 1-13-95

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 64
SB 66

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Cathy Kendall	Crime Control	64	✓	
Ted Clack	DCHS	66		
John Huth	DCHS	66		
W. James Kembel	City of Billings	64	✓	
MARY ELLERD	MTPOA	64		
Bob Gilbert	MT. MAGISTRATES ASSOC.	64	✓	
Beth Baker	Dept of Justice	SB64	✓	
Thomas G Wilson	Mont. Shooting Sports et al.	SB 66		
Lew Taylor	ADAD - DCHS	SB64	✓	
Jim OBERHOFER	MCOP	64	✓	
Kathy McGowan	MSPOA	64, 66	✓	
Robert Runkel	OPI	64	✓	
H. M. (Bud) Elwell	NWAC/WCSM	SB 66	✓	
Russell B Hill	MTLA	66		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 1-13-95

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 64
SB 66

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Jerry Williams	Montana Police Protective Assn	64	✓	
Jerry Williams	" " " "	66	✓	
GENE KISER	MBCC	64	✓	
STEVE YEAKEL	MT COUNCIL FOR MATERNAL & CHILD HEALTH	64	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Motion/Vote: **SENATOR REINY JABS** moved **SB 88 BE TABLED.** The motion **CARRIED UNANIMOUSLY** on oral vote.

EXECUTIVE ACTION ON 133

Discussion: **Valencia Lane** stated no amendments were requested.

Motion: **SENATOR RIC HOLDEN** moved **SB 133 DO NOT PASS.**

Discussion: **SENATOR HOLDEN** suggested leaving well enough alone. **SENATOR JABS** stated that having more members on a board does not necessarily mean you get better representation. If $500 per case could be saved by this bill, he would be in favor it. **CHAIRMAN CRIPPEN** stated the maximum number of jurors would be nine. However, a smaller number would be allowed if both parties agree. **SENATOR BARTLETT** asked for clarification of the number of jurors who must agree in a civil case as compared to a criminal case. **SENATOR AL BISHOP** clarified that in a criminal trial all jurors must agree. In a civil trial, two-thirds of the jurors must agree. **CHAIRMAN CRIPPEN** stated that he would not have any problem with this bill if either side had the right to bring the number back to twelve. That is not in the bill.

Vote: The motion **FAILED** with **SENATORS BAER, BARTLETT, ESTRADA, HALLIGAN, JABS,** and **NELSON** voting "NO". The vote was reversed as a **DO PASS.**

EXECUTIVE ACTION ON SB 64

Discussion: **Valencia Lane** stated she did not have any amendments prepared. One of the concerns was that the age shouldn't be raised from 19 to 21, it should be left at 19. There was also concern about the information given to insurance companies.

CHAIRMAN CRIPPEN stated concern with page 4, lines 21 and 22, "The person need not be consuming or in possession of the intoxicating substance at the time of arrest to violate this subsection." His concern is for the designated driver who has not consumed any intoxicating substance but has possession of the car. **Beth Baker, Justice Department,** stated that possession is a factual question in every case. The driver of the vehicle is not presumed to have control over anything in the vehicle. Law enforcement and prosecutors have questioned when possession can be charged. You need to have knowing control over the object you are charged with possessing. The question will be whether the designated driver is in possession. The prosecutor will be looking at evidence that the driver possessed or consumed alcohol. The intent is to get at the youths who are consuming but get rid of the cup when the cops show up. The only change in this bill is that it would extend to include everyone who is a minor whether they are 17 or 20 years old. It is no different

than the law concerning possession of drugs which applies to adults. **SENATOR BISHOP** asked whether the driver could be charged with contributing or providing alcohol to minors. **Ms. Baker** stated the driver could be charged under other sections. This is a tough issue. What this bill is trying to do is to get to the youths, through treatment and other programs, before they become problem drinkers. Designated drivers are good; however, the message to the drivers should be that they should not have alcohol in the car because it is dangerous. The ultimate message should be that drinking and driving is the biggest problem.

SENATOR BISHOP stated that even if there is a designated driver, that driver is a part of an illegal act and should be liable for his actions.

SENATOR LINDA NELSON said she was bothered by the fact that this bill is treating 18, 19 and 20 year olds as juveniles. We are respecting their rights to vote, they are allowed to enlist and fight for their country; however, if they buy a beer they are penalized as juveniles.

SENATOR BARTLETT stated the inconsistency stems from our constitution where we have said that anyone under the age of 21 cannot consume alcoholic beverages. That throws the 18 to 21 year-olds into a different status than they would be under for nearly all other laws in our state. Under existing statute, the driver's license of a person 18 to 21 cannot be suspended, even if they are driving. If they are under 18, whether they are driving or not, their license could be confiscated for up to 90 days plus a $50 fine. Even though this bill puts everyone from 18 to 21 into a true minor's statute, it offers increased penalties for both possession or consumption of alcohol.

SENATOR CRIPPEN stated he was concerned about insurance companies raising premiums because of a first offense.

Motion/Vote: **SENATOR NELSON** moved **SB 64 DO NOT PASS.**

Discussion: **SENATOR NELSON** stated her biggest problem is that the bill addresses the 18, 19 and 20 year olds as juveniles. She suggested that on page 4, line 19, she would take out 21 years and leave 19 years.

CHAIRMAN CRIPPEN asked for the comparison between the youth convicted of the first, second, and subsequent offenses and an adult with the same offenses. **Ms. Baker** stated a DUI, for an adult, is a misdemeanor punishable by up to six months and a $500 fine. They can get a probationary license. **CHAIRMAN CRIPPEN** wanted to make sure that the punishment would not be worse for a youth than it would be for an adult. **Ms. Baker** stated that for the first offense as an adult the punishment is 24 hours in jail which is mandatory and a fine of not less than $100 or more than

$500. Second offense, not less than $300 or more than $500 and imprisonment for not less than seven days, forty eight hours of which must be served consecutively. Third and subsequent offenses, a fine of not less than $500 or more than $1000 and imprisonment for a term of not less than 30 days, at least 48 hours of which must be served consecutively, or more than one year. **SENATOR CRIPPEN** stated the law now for 19 and 20 year olds would be far more severe than under this bill. **Ms. Baker** stated the DUI statutes would apply only if the person was driving or in control of a motor vehicle and the MIP implies that they are in possession, whether they are driving or not.

SENATOR NELSON understood that this bill dealt with possession instead of trying to purchase. **Ms. Baker** said the bill is trying to make the law more consistent. Right now we have different penalties and criteria that govern youths under 18 when they possess alcohol. They are trying to make the law consistent for all the youths.

Vote: The motion **FAILED 8-3** on roll call vote.

Discussion: **SENATOR DOHERTY** stated that we are discouraging youths to have designated drivers with this bill.

{Tape: 1; Side: B}

EXECUTIVE ACTION ON 90

Discussion: SENATOR BAER explained the amendments **EXHIBIT 1.** This is a public safety bill. It provides that people who are capable of instructing proper safety in handling and use of firearms be encouraged to do so.

Motion/Vote: **SENATOR BAER** moved to **AMEND SB 90**. The motion **CARRIED** on oral vote with **SENATOR DOHERTY** voting **"NO"**.

Motion: **SENATOR HOLDEN** moved **SB 90 DO PASS AS AMENDED.**

Discussion: **SENATOR BARTLETT** stated that the language doesn't link the immunity to safety instruction. The way it is worded any conduct, acts, or omissions of a student would be covered which could relate to the student's driving.

SENATOR BAER stated that the intent of this bill is that an instructor not be held accountable for the acts of his student due to his instruction in firearm safety.

SENATOR CRIPPEN stated that **SENATOR BISHOP** prepared an amendment which included, page 1, line 18, following "student", insert: "handling firearms".

MONTANA SENATE
1995 LEGISLATURE
JUDICIARY COMMITTEE

ROLL CALL DATE 1-20-95

NAME	PRESENT	ABSENT	EXCUSED
BRUCE CRIPPEN, CHAIRMAN	✓		
LARRY BAER	✓		
SUE BARTLETT	✓		
AL BISHOP, VICE CHAIRMAN	✓		
STEVE DOHERTY	✓		
SHARON ESTRADA	✓		
LORENTS GROSFIELD	✓		
MIKE HALLIGAN	✓		
RIC HOLDEN	✓		
REINY JABS	✓		
LINDA NELSON	✓		

SEN:1995
wp.rollcall.man

MONTANA SENATE
1995 LEGISLATURE
JUDICIARY COMMITTEE
ROLL CALL VOTE

DATE 1/20/95 BILL NO. SB 64 NUMBER _____

MOTION: Sen Nelson SB64 DO NOT PASS

NAME	AYE	NO
BRUCE CRIPPEN, CHAIRMAN		✓
LARRY BAER	✓	
SUE BARTLETT		✓
AL BISHOP, VICE CHAIRMAN		✓
STEVE DOHERTY		✓
SHARON ESTRADA	✓	
LORENTS GROSFIELD		✓
MIKE HALLIGAN		✓
RIC HOLDEN		✓
REINY JABS		✓
LINDA NELSON	✓	

SEN:1995
wp:rlclvote.man

SENATOR DOHERTY, following up on the 2/3 vote for immunity, questioned if the immunity clause was an important part of the bill and if they would consider any contingency language if the 2/3 vote failed. **SENATOR JACOBSON** stated the Department of Family Services and volunteers already have that immunity. They are asking for parity with that.

Closing by Sponsor:

SENATOR JACOBSON remarked that this program will make government smaller, get things back to a local level and get people involved in community programs.

{Tape: 1; Side: B; Approx. Counter: 11.3}

EXECUTIVE ACTION ON SB 127

Motion/Vote: **SENATOR CRIPPEN** moved **SB 127 DO PASS.** The motion **CARRIED UNANIMOUSLY** on oral vote.

EXECUTIVE ACTION ON SB 64

Motion: **SENATOR NELSON** moved to **AMEND SB 64.**

Discussion: Amendments prepared by Valencia Lane were handed out. **EXHIBIT 4 Ms. Baker** explained it was her understanding that the committee would prefer to have lesser penalties for the adult minors. The third amendment keeps in the six month jail sentence which is current law for offenders who are 18 and over. This will allow the court to suspend the driver's license for a second or subsequent offense for an 18 or older violator, if that person was driving or in control of the vehicle at the time the offense occurred.

Vote: The motion **CARRIED UNANIMOUSLY** on oral vote.

Motion: **SENATOR CRIPPEN** moved **SB 64 DO PASS AS AMENDED.**

Discussion: **SENATOR GROSFIELD** expressed concern regarding underaged designated drivers. If a designated driver was penalized, the word would get around that you may as well forget about being a designated driver.

SENATOR DOHERTY stated he had the same concerns. **Ms. Baker** stated this bill will not change the law regarding the designated driver status. The prosecutor must have evidence that would be sufficient to convince a jury beyond a reasonable doubt that the defendant was in possession of alcohol. There will have to be circumstantial evidence that the driver consumed or was in possession of alcohol for that person to be charged.

SENATOR GROSFIELD remarked he is troubled by the possession part of this situation. He brought up the situation of a designated driver who does not consume any alcohol, drives everyone home, and is then stopped. If there is a can of beer left in the car or if beer has been spilt in the car, is the designated driver in possession? **Ms. Baker** said that decision will need to be made on a case by case basis. However, it is irrelevant to this bill because that situation deals with current law. They do not wish to discourage the use of designated drivers. It is an enforcement issue and one that can be dealt with outside of the confines of this bill.

SENATOR JABS stated the driver of the car is in charge of the car. If someone is not wearing a seat belt, the driver is responsible.

SENATOR BISHOP stated that the designated driver is guilty of being an accessory. He is part of the scheme to break the law.

SENATOR CRIPPEN remarked that under current law the designated driver would be in possession. Some of this needs to be left up to the discretion of law enforcement officials.

SENATOR BAER commented that in dealing with the designated driver issue, we are talking about accountability resulting from responsibility. A designated driver should take reasonable steps to see that no alcohol is brought into the car by the underaged people who had been drinking previously.

Vote: The motion **CARRIED** on oral vote with **SENATOR BARTLETT** voting **"NO".**

EXECUTIVE ACTION ON SB 66

Discussion: **SENATOR CRIPPEN** stated that "robbery" and "arson" had been removed from the bill. In comparing deliberate homicide to mitigated deliberate homicide, the difference is whether there is a defense that the defendant acted under the influence of extreme mental or emotional stress for which there was a reasonable explanation or excuse. The penalty for deliberate homicide is death or life imprisonment. The penalty for mitigated deliberate homicide is less severe. Kidnapping now has a penalty of not less than two years nor more than ten years. Aggravated kidnapping is punishable by death. His concern is custody cases where the parent runs off with the child and is caught. The mother or father can be convicted of aggravated kidnapping. **SENATOR HALLIGAN** contended that the custodial interference statute would apply. The non-custodial parent is contacted and given a 24 hour time frame to return the child before they are charged with kidnapping. **SENATOR CRIPPEN** continued that his concern is that in dealing with two strikes and you are out, they are not dealing with pure cases of aggravated kidnapping or premeditated murder.

1

MONTANA SENATE
1995 LEGISLATURE
JUDICIARY COMMITTEE

ROLL CALL DATE 1-23-95

NAME	PRESENT	ABSENT	EXCUSED
BRUCE CRIPPEN, CHAIRMAN	✓		
LARRY BAER	✓		
SUE BARTLETT	✓		
AL BISHOP, VICE CHAIRMAN	✓		
STEVE DOHERTY	✓		
SHARON ESTRADA	✓		
LORENTS GROSFIELD	✓		
MIKE HALLIGAN	✓		
RIC HOLDEN	✓		
REINY JABS	✓		
LINDA NELSON	✓		

SEN:1995
wp.rollcall.man

SENATE STANDING COMMITTEE REPORT

January 23, 1995

MR. PRESIDENT:
We, your committee on Judiciary having had under consideration SB 64 (first reading copy -- white), respectfully report that SB 64 be amended as follows and as so amended do pass.

Signed: _____
Senator Bruce Crippen, Chair

That such amendments read:

1. Page 4, line 28.
Following: "person"
Insert: "under 18 years of age who is"

2. Page 6, line 5.
Following: "appropriate"
Strike: "; and"
Insert: ".

(3) A person 18 years of age or older who is convicted of the offense of possession of an intoxicating substance shall:

(a) for a first offense, be fined an amount not to exceed $50 and be ordered to perform community service if a community service program is available;

(b) for a second offense, be fined an amount not to exceed $100 and:

(i) be ordered to perform community service if a community service program is available; and

(ii) have the person's driver's license suspended for not more than 60 days if the person was driving or otherwise in actual physical control of a motor vehicle when the offense occurred;

(c) for a third or subsequent offense, be fined an amount not to exceed $200 and:

(i) be ordered to perform community service if a community service program is available;

(ii) have the person's driver's license suspended for not more than 120 days if the person was driving or otherwise in actual physical control of a motor vehicle when the offense occurred;

(iii) be ordered to complete an alcohol information course at an alcohol treatment program approved by the department of corrections and human services, which may, in the sentencing court's discretion and upon recommendation of a certified chemical dependency counselor, include alcohol or drug treatment, or both; and"

Renumber: subsequent subsections

Amd. Coord.
Sec. of Senate

3. Page 6, line 6.
Strike: "(iii)"
Insert: "(iv)"
Following: "court"
Strike: ", if the person was 18 years of age or older at the time that the offense was committed,"

4. Page 6, line 10.
Following: "~~$50~~"
Insert: "$50 if the person was 18 years of age or older at the time the offense was committed or"
Following: "$100"
Insert: "if the person was under 18 years of age at the time that the offense was committed"

-END-

SENATE JUDICIARY COMM
EXHIBIT NO. 4
DATE: 1/23/95
BILL NO: SB 64

Amendments to Senate Bill No. 64
First Reading Copy

Requested by Senator Nelson
For the Committee on Judiciary

Prepared by Valencia Lane
January 23, 1995

1. Page 4, line 28.
Following: "person"
Insert: "under 18 years of age who is"

2. Page 6, line 5.
Following: "appropriate"
Strike: "; and"
Insert: ".

(3) A person 18 years of age or older who is convicted of the offense of possession of an intoxicating substance shall:

(a) for a first offense, be fined an amount not to exceed $50 and be ordered to perform community service if a community service program is available;

(b) for a second offense, be fined an amount not to exceed $100 and:

(i) be ordered to perform community service if a community service program is available; and

(ii) have the person's driver's license suspended for not more than 60 days if the person was driving or otherwise in actual physical control of a motor vehicle when the offense occurred;

(c) for a third or subsequent offense, be fined an amount not to exceed $200 and:

(i) be ordered to perform community service if a community service program is available;

(ii) have the person's driver's license suspended for not more than 120 days if the person was driving or otherwise in actual physical control of a motor vehicle when the offense occurred;

(iii) be ordered to complete an alcohol information course at an alcohol treatment program approved by the department of corrections and human services, which may, in the sentencing court's discretion and upon recommendation of a certified chemical dependency counselor, include alcohol or drug treatment, or both; and"

Renumber: subsequent subsections

3. Page 6, line 6.
Strike: "(iii)"
Insert: "(iv)"
Following: "court"
Strike: ", if the person was 18 years of age or older at the time that the offense was committed,"

4. Page 6, line 10.

(over)

Following: "~~$50~~"
Insert: "$50 if the person was 18 years of age or older at the time the offense was committed or"
Following: "$100"
Insert: "if the person was under 18 years of age at the time that the offense was committed"

REP. SOFT asked about the effect if the person had remarried for a period of five years.

Mr. McLean said the surviving spouse would have a claim on any assets of the estate by the percentage allowed. Depending on the allowance, the policy might or might not be affected.

REP. CURTISS asked about the allowance before people are subject to inheritance tax.

Mr. McGinnis said he thought she was confusing the federal estate tax with the state inheritance tax. Under the state inheritance tax law, legal descendants and spouses are exempt.

REP. CURTISS asked if the augmented insurance would push the amount up to make them liable under the federal provision. She understood that there was consideration to bring it down to $200,000.

Mr. McGinnis said he had not understood how the augmented estate would impact the federal estate situation in terms of the present $600,000 exclusion.

Professor Eck said if there was any impact, it would be beneficial in that it would not enlarge the estate of the decedent at all. Any tax relationship would benefit the spouse and the marital deduction and reduce the federal tax. He and **REP. CURTISS** continued to clarify this point.

{Tape: 2; Side: A; Approx. Counter: 34.8}

Closing by Sponsor:

SEN. BISHOP closed with remarks about other ways to circumvent problems in a second marriage. He also said that historically the intent has been to protect the surviving spouse. With the amendments, they would reverse that and he admonished the committee to remove the emotion from their deliberations by considering the benefits to an aging spouse versus the children. He felt that in most cases the other assets would be sufficient to take care of the elective share leaving insurance policies untouched.

HEARING ON SB 64

Opening Statement by Sponsor:

SEN. DEL GAGE, SD 43, said SB 64 was being presented by request of the Board of Crime Control to deal with Minors in Possession (MIP) offenses. The Senate was concerned that they were treating those who are 18 - 20 the same as those under 18 and they felt there was enough difference to segregate them. With the exception of section 6 all of the other parts of the bill existed

because of having to change references with the addition of section 6. Section 6 reflected the revision of the law relating to youth in possession of intoxicating substances.

Proponents' Testimony:

Gene Kiser, Montana Board of Crime Control, presented his testimony supporting SB 64. **EXHIBIT 11**

Beth Baker, Assistant Chief Deputy Attorney General, submitted testimony in support of SB 64. She said the bill was designed to help deter youth drinking behaviors by increasing the penalties and allowing more sentencing options for the courts. She addressed the amendments in section 6 of the bill which provide for more moderate penalties for those 18 - 21. The Department of Justice supported the amendments. She noted that a letter from **Judge Larson** from Missoula expressed support for the bill and his suggestion for a coordinating instruction with HB 429 because it amends 41-5-601, MCA, dealing with confidentiality. She did not agree that a coordinating instruction would be needed. **EXHIBIT 12**

Bob Gilbert, Montana Magistrates Association, appeared in strong support of this bill.

Mary Ellerd, Montana Juvenile Probation Officers' Association, said they definitely supported the bill. They did have a question about the difference in the amount of the fine for first and second offenses as it would apply to someone under 18 with a higher fine for the same offense for someone between 18 and 21. She pointed out the places in the bill which referred to those fines.

Marsha Armstrong, Department of Corrections and Human Services (DCHS), encouraged the committee's support of SB 64. She submitted written testimony from **Mike Shortell, Chairman, Minors in Possession Task Force (MIP); James Beckman, Member of the MIP Task Force** and **Robin Morris, Executive Director, Havre Encourages Long-range Prevention,** in support of the bill. **EXHIBITS 13 - 15**

Kathy Mc Gowan, Chemical Dependency Programs of Montana and Montana Sheriffs' and Peace Officers' Association, said both organizations were strongly in support of SB 64.

Jim Oberhoffer, retired Chief of Police, Missoula, strongly supported the bill.

Opponents' Testimony:

None

Informational Testimony:

EXHIBIT 16 is a brochure from the Montana Board of Crime Control and **EXHIBIT 17** is a letter of support.

Questions From Committee Members and Responses:

REP. TASH asked if he understood that this bill would only be effective for those counties which have the electronic record keeping system.

Ms. Baker said, "No. We are putting into the bill that the offenses will be tracked by reporting to the Montana Department of Justice, Records and Driver Control Bureau, because of the fact that most counties don't have electronic record keeping.

REP. DANIEL MC GEE asked why the offense listed on page 6 under item (ii) is not a DUI.

Ms. Baker said it is not necessarily a DUI for a minor to be in possession. This is the policy for a person who is not of legal drinking age who many not consume or possess. For a DUI offense, the person must be under the influence of an intoxicating substance and in control of the motor vehicle. For an MIP conviction, they need not be driving or in control of the motor vehicle. They do not need to have any measurable amount of alcohol in their system, but just possessing or consuming. The penalties for kids under 18 include drivers license consequences even if the offender is not driving at the time of the offense. The Task Force believed that the only way to reach the kids was through their ability to drive. The other penalties don't mean much to them. The 18 and older offenders' penalties restricting drivers licenses were different because the Senate did not think that by the time they reach adulthood, they should be punished in that way unless they were committing a driving offense. Most 18 - 21 year old's have more need for possession of a drivers license for transportation to and from work or school.

REP. MC GEE asked why they would want to have a higher fine for somebody under 18 than for somebody over 18.

Ms. Baker pointed out the provision of current law on page 5, lines 20 - 22, for different penalties for kids 18 and older. The Task Force decided it would be better to have consistent penalties for everyone, but in the Senate there were a number of concerns raised about strict penalties for minors who were technically, under the law, adults in all other respects. The Senate felt the younger children where the ones they were targeting with this bill. The result was the compromise language of this version of the bill.

REP. MC GEE asked if it was her impression that it was in the interest of getting the bill passed that it would be best not to try to amend it further.

Ms. Baker said they were satisfied with the bill as amended by the Senate and they believed there were some very important elements in this bill which would help address the problem of underaged drinking. The concerns in the Senate were strong enough that if those amendments were stripped, they would have difficulty getting it through the Senate. They would prefer that it go with the amendments rather than jeopardize the bill.

REP. KOTTEL asked how the penalties under this bill are parallel to the penalties in minors in possession of controlled substances.

Ms. Baker said this law addressed both intoxicating substances and controlled substances.

{Tape: 2; Side: B}

Most simple possessions would be charged under this statute though there were other statutes under title 45 which would have some other penalties for other offenses.

REP. KOTTEL asked for a definition of what it means to be in possession of an intoxicating substance. She was talking about the designated driver who does not consume being charged.

Ms. Baker replied that Montana law recognizes actual and constructive possession. There have been a number of cases defining what constructive possession means. Law enforcement struggles with it and they have advised their highway patrol officers and prosecutors not to charge the kids with the offense simply for being present. Possession means that they having knowing control for a sufficient amount of time to be able to terminate that control. In order to charge someone with the offense, the prosecutor will need corroborating evidence that a jury could use to find that there was knowing possession/knowing control of the substance.

REP. HURDLE asked if, as a member of the task force, **Ms. Armstrong** gained an impression whether or not this was a great problem in numbers in kids over 18 or in kids under 18.

Ms. Armstrong said the majority of their programs which deal with minors in possession were in the 18 - 21 year old group. They have a harder time grasping how many are under 18 because of the way they are treated in the system.

REP. HURDLE asked if all counties are developing alcohol and drug treatment programs.

Ms. Armstrong said that it is a statutory requirement which is reviewed and approved by each of the county commissioners.

REP. HURDLE noted that the bill says, "treatment plans if available."

Ms. Armstrong said the bill speaks to programs which are community based or a school-based. The majority of the treatment programs provide services in each of the counties.

REP. HURDLE asked if the drug and alcohol programs address the dramatic gender differences or if they could be made to do so.

Ms. Armstrong said they are required to target women in drug and alcohol programs in the prevention area.

REP. HURDLE asked what is being done to target the 70% attributed to males.

Ms. Armstrong said they have programs which are studying ways to prevent the use at such an early age.

REP. HURDLE asked if she knew why the split is 30% - 70% between females and males.

Ms. Armstrong alluded to the diminished numbers of arrests of women because law enforcement prefers to avoid female offenders and that there is a higher percentage among women than reported.

REP. HURDLE asked if there was a way to address the gender difference.

Ms. Armstrong said they were in the process of developing a needs assessment in the department over the next two years.

Closing by Sponsor:

SEN. GAGE addressed the concerns of the committee in his closing. He felt some of the gender split had something to do with media advertising influence. **REP. SOFT** said he was willing to carry the bill.

Motion: **REP. LINDA MC CULLOCH MOVED TO ADJOURN.**

{Comments: This set of minutes is complete on two 60-minute tapes.}

1
2/28/95
9

HOUSE OF REPRESENTATIVES

Judiciary

ROLL CALL DATE ____

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Clark, Chairman	✓		
Rep. Shiell Anderson, Vice Chair, Majority	✓		
Rep. Diana Wyatt, Vice Chairman, Minority		✓	
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Boharski	✓		
Rep. Bill Carey	✓		
Rep. Aubyn Curtiss	✓		
Rep. Duane Grimes	✓		
Rep. Joan Hurdle	✓		
Rep. Deb Kottel	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee			✓
Rep. Brad Molnar		✓	
Rep. Debbie Shea	✓		
Rep. Liz Smith	✓		
Rep. Loren Soft	✓		
Rep. Bill Tash	✓		
Rep. Cliff Trexler	✓		

EXHIBIT 11
DATE 2/28/95
SB 64

STATE OF MONTANA

DEPARTMENT OF JUSTICE
BOARD OF CRIME CONTROL

303 North Roberts - PO Box 201408 - Helena, MT 59620-1408

Joseph P. Mazurek
Attorney General

Phone (406) 444-3604
FAX (406) 444-4722

SB 64 : Minor In Possession

Sponsor: Senator Del Gage

Testimony: Gene Kiser
Montana Board of Crime Control
444-3604

Based on statements of concern from justice system professionals throughout the state, the Board of Crime Control appointed a task force in 1993. Its charge was to assess the effectiveness of Minor in Possession (MIP) enforcement and make recommendations for changes, if any deficiencies were found. The task force, chaired by Havre Police Chief Mike Shortell, was made up of representatives from law enforcement, the judiciary, juvenile probation, and treatment professionals. Staff from Crime Control, Highway Traffic Safety, and the Alcohol and Drug Abuse Division of Corrections & Human Services provided support for the task force.

SB 64 reflects the work of the MIP Task Force - a combination of reviewing statutes, data regarding arrests and dispositions, a survey of justice professionals, and the wealth of experience represented by task force members.

A survey was conducted in the summer of 1993 of Sheriffs & Police Chiefs (116), Chief Juvenile Probation Officers (20),Courts of Limited Jurisdiction (126) and treatment professions (37). Response rates varied from 76 - 95%; the high return lends validity to the results.

- A majority (70-95%) indicated that current MIP statutes are inadequate.
- 69% of law enforcement and 78% of treatment professionals felt that dispositions were too lenient.

DATA:

- **5,160** minors were arrested in 1993 for possession, an increase of 3,700 over the 1,485 arrested in 1983. Of those, about 1/5th (900), were referred to Youth Court.
- The gender split has consistently been about **70/30 for males and females.**
- 90% are arrests of white youth; 8% arrests of native americans.

The major intents of this legislation are to: **establish consistency, provide effective deterrents, and provide a method of tracking**.

1. Problem: no method of tracking repeat offenders.
proposal: require that all convictions be reported to Records & Drivers Control. 1st offense cannot be used for insurance purposes.

2. Problem: lack of consistent treatment because jurisdiction is shared between Youth Court and Courts of Limited Jurisdiction.
proposal: require same penalties irrespective of jurisdiction.

3. Problem: Current statutes have limited impact and questionable deterrent effect.
proposal: establish increased penalties for 2nd and 3rd offenses. Increase the fines for possession and attempt to purchase, use suspension or revocation of driving privileges, require community service and substance abuse education - if available.

Substantial consideration was given to the question of using driving privilege penalties for non-driving offenses. The majority of Task Force members, although not all, felt that fines alone were not effective. It was their judgment that the potential loss of driving privileges would have the most profound effect.

Concern for "multiple offenders" was raised repeatedly. Over the life of the task force, members frequently brought newsclippings showing citations for 5 and 6 Mip offenses. As there is no data system currently collecting the information, we have no way of judging how many of the 5,000+ kids cited during 1993 had more than one arrest. Until the court automation projects are implemented, using Records and Drivers Control Division is the most efficient, immediately available option. The Division has indicated that they can accomodate service.

Copies detailing the full deliberation of the Task Force as well as the complete response for the survey are available from the Board.

Senator Gage
EXHIBIT 12
DATE 2/28/95
SB 64

ATTORNEY GENERAL
STATE OF MONTANA

Joseph P. Mazurek
Attorney General

Department of Justice
215 North Sanders
PO Box 201401
Helena, MT 59620-1401

MEMORANDUM

TO: Major Bud Garrick
Montana Highway Patrol

FROM: Beth Baker
Assistant Chief Deputy Attorney General

DATE: March 30, 1994

SUBJECT: Minors In Possession

You have requested legal advice concerning when it is appropriate to charge a minor with possession of alcohol in violation of Mont. Code Ann. § 45-5-624. In particular, the question has been raised whether all minors present at a party where alcohol is being served may be prosecuted for possession.

Mont. Code Ann. § 45-5-624(1)(a) provides:

> A person under the age of 19 years commits the offense of possession of an intoxicating substance if the person knowingly consumes or has in the person's possession an intoxicating substance. The person need not be consuming or in possession of the intoxicating substance at the time of arrest to violate this subsection.

The last sentence of this section was added in 1989 in an attempt to clarify that minors who are clearly intoxicated or suspected of accepting an intoxicating substance from another person may be charged even if they are not physically holding the alcohol in their hands at the time of arrest.

"Possession" is defined in the Montana criminal code as "the knowing control of anything for a sufficient time to be able to terminate control." Mont. Code Ann. § 45-2-101(52) (emphasis added). This definition applies to all Title 45 offenses, including a violation of Mont. Code Ann. § 45-5-624. The Montana Supreme Court, considering possession in the context of drug cases, has held that possession may be either actual or constructive:

> Actual possession means that the drugs are in the personal custody of the person charged with possession; whereas constructive possession means that the drugs are not in actual physical possession but that the person charged with possession has dominion and control over the drugs. . . . In order to find either actual or constructive possession, the fact finder must find that there was "knowing" possession.

State v. Van Voast, 805 P.2d 1380, 1383 (Mont. 1991) (emphasis added). Thus, as in other criminal cases, the State has the burden of proving, as an element of the offense, the mental state of "knowingly." Id. Accord State v. Hall, 816 P.2d 438, 441 (Mont. 1991). In one recent case, the Court found insufficient proof of knowing possession where, although the defendant owned the trailer in which illegal drugs were found, no evidence was produced to tie the defendant to the drugs and there were others who had access to the trailer during the time in question. State v. Gorder, 811 P.2d 1291, 1293 (Mont. 1991).

Since there is usually no direct evidence of knowledge, it may be inferred from evidence of acts, declarations, or conduct of the accused. Hall, 816 P.2d at 441; Van Voast, 805 P.2d at 1383 ("A mental state may be inferred from the acts of the accused and the facts and circumstances connected with the offense"). Accordingly, each case must be evaluated in light of the evidence available. In order for a minor to be charged with possession, the prosecutor must be satisfied that evidence--direct or circumstantial--exists to show that the minor had "knowing" possession, either actual or constructive. Factors that might be considered include, most notably, evidence of intoxication, as well as evidence that the minor had been seen drinking from an alcoholic beverage container or had purchased the alcohol at an earlier time.

A county attorney has considerable discretion in deciding whether to bring charges in a given case. In order for the state to obtain a conviction, it must prove each element of the offense by evidence beyond a reasonable doubt. If the county attorney does not believe that the evidence supports such a finding, he or she is ethically obligated to refrain from filing charges. As described above, constructive possession includes the element of "knowing" control for a sufficient time to be able to terminate control. It is up to the county attorney to review the evidence available and determine whether that element can be proved beyond a reasonable doubt. A prosecutor does not abuse his discretion in determining not to file charges simply on evidence that a minor was present where alcohol was being consumed by others.

EXHIBIT 12
DATE 2-28-95
SB 64

There must be some other evidence tending to show "dominion and control" of the alcohol by the suspect. It is not necessary that such control be exclusive; as the Court stated in Hall, "[w]here a controlled substance is found in a place subject to the joint dominion and control of two persons, possession may be imputed to either or both persons." 816 P.2d at 441. However, mere presence at the scene is not sufficient, standing alone, to show dominion and control, and it is within the judgment of the prosecutor to determine whether sufficient additional evidence exists to support a conviction.

c: John P. Connor, Jr., CPS
Cathy Kendall, MBCC

February 25, 1995

EXHIBIT 13
DATE 2/28/95
SB 64

Chairman Bill Clark
House Judiciary Committee

Sir:

I urge the House Judiciary Committee to support Senate Bill No. 64 as introduced by Senator Gage.

As Chairman of the Minors in Possession Task Force of the Board of Crime Control, I can assure you that the members of the Task Force, through much diligence and thoughtful discussion, came to the conclusion that the changes in penalty and the provisions for driver license confiscation and suspension are necessary as a meaningful deterrent to underage drinking.

Another major concern of the Task Force was the inconsistency with which minor offenders are dealt with state wide. The provisions for community service and community based substance abuse information courses will go a long way towards addressing these issues.

I realize these increases in penalty may be perceived by some as too harsh. I disagree with that view. Effective law demands effective enforcement. Effective enforcement depends on meaningful consequences. Consequences must overcome peer pressure. The loss of a driver's license may very well be too high a price for a youth to pay to risk succumbing to the pressure applied by friends to go partying.

Please give this legislation a chance. Please join in sending a message to our youth that old attitudes, which can almost be described as a wink and nod acceptance that drinking by youth is an inherent right of passage in Montana, is no longer acceptable,

Thank you for your consideration.

Sincerely,
Mike Shertell

EXHIBIT 14
DATE 2/28/95
SB 64

ADSGC
ALCOHOL & DRUG SERVICES OF GALLATIN COUNTY

February 27, 1995

Senate Judiciary Committee

Chairman and Members of the Committee:

As a member of the Governor's MIP Task Force that gathered data for Senate Bill 64 I urge passage of this bill.

I have worked as a professional in the field of Alcohol & Drug Addiction for 25 years. At present I am the Executive Director of Alcohol & Drug Services of Gallatin County in Bozeman. This program, by the way, admits between 300 to 400 MIP's a year. With a program this large, we have the opportunity to experience firsthand, some of the problems with current MIP laws.

Problem 1: There are few options for Judges with repeat offenders.
Problem 2: Most MIP's who go through our program view the fines and cost of education programs as "no big deal" and seem always to have the money to pay.
Problem 3: The majority of repeat MIP's are already having serious problems in other areas of their life because of alcohol but because the present law does not give the court enough authority to order evaluations and treatment, we miss the chance to intervene at age 17 to 20. This enables Montana's young adults to further develop their addiction and end up with more serious problems, which might include DUI's, suicide, assaults and other criminal behavior. This is proven by admission to our other programs two or three years later when these repeat offenders are admitted for more serious issues.

I do believe that stiffer penalties and giving the courts the authority to intervene earlier with evaluations and or treatment, will alleviate many of these problems.

Again, I urge passage of Senate Bill 64.

Sincerely,

James W. Beckman
Executive Director

JWB/dj

cc: file

EXHIBIT 15
DATE 2/28/95
SB 64

H. E. L. P.

(Havre Encourages Long-Range Prevention)
306 3rd Avenue, Ste 205
Post Office Box 68
Havre, MT 59501
(406) 265-6206
(Phone & FAX)

February 27, 1995

Chairman Bob Clark
House Judiciary Committee

Dear Sir:

As the Executive Director for Havre Encourages Long-range Prevention, a not-for-profit community-based organization with a 15 year history in alcohol, tobacco and other drug abuse prevention, I strongly encourage you to support SB 64.

Since it's inception H.E.L.P. has tracked the incidence of alcohol related offenses in our region. Sadly, the number of youth involved with possession of alcohol has increased. Granted, the number increased along with the increased drinking age (19 to 21) that went to in effect in April of 1987; however, the 18-21 year olds are not getting the message from the laws that now exist! As it is illegal for them to consume alcohol, the law should reflect a zero tolerance by those under age. That requires a consequence of significance. Perhaps these youth will look at drinking in a different light if that behavior could take away something they treasure -- their drivers license.

Please give SB 64 your most careful consideration. I have a 16 year old son that will be affected by it's outcome. As the law presently sits there is a lot of pressure for those that choose not to drink to take on the role of designated driver. The law does not discourage it; however SB 64 would. As it should. A designated driver only condones the illegal behavior. Lets' clear up one of the mixed messages that our youth are faced with -- if you are under 21, don't drink, because if you do you will have to pay a fair price.
Thank you for your consideration.

Sincerely,

Robin E. Morris
Executive Director

EXHIBIT 16
DATE 2/28/95
SB 64

MINORS IN POSSESSION:

A PROBLEM FOR MONTANA

MBCC

MONTANA BOARD OF CRIME CONTROL

The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

EXHIBIT 17
DATE 2/28/95
SB 64

FLATHEAD VALLEY CHEMICAL DEPENDENCY CLINIC

P.O. Box 7115
1312 N. Meridian Road
Kalispell, MT 59904-0115
(406) 756-6453
FAX (406) 756-8546

North Valley Office
P.O. Box 2418
6 - 9th Street
Columbia Falls, MT 59912
(406) 892-7900

HOUSE JUDICIARY COMMITTEE
TESTIMONY ON SENATE BILL 64

Thank you for this opportunity to express our support of Senate Bill 64 revising laws related to youth who possess an intoxicating substance.

We commend this recognition that alcohol and other drug use by our youth is a serious concern which requires our utmost attention.

The strength of this bill lies with the fact that youth are held accountable for their actions by assuring tangible predictable consequences coupled with an opportunity for assistance.

Unfortunately, the motivation for change rarely comes until we experience discomfort. An external inconvenience, which forces us to look at our actions and the negative ramifications, can lay the foundation for better decisions in the future.

I particularly endorse the suspension of driving privileges. As a former juvenile probation counselor, I can attest first hand to the motivational benefit this standard loss of privilege created in the Court which I served.

While we are concerned by the apparent double message and standard set for 18 to 20 year olds, we believe this bill is a much needed step in the right direction and encourage its passage.

Respectfully submitted,

Michael Cummins, MA
Executive Director
Flathead Valley Chemical Dependency Clinic

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

JUDICIARY COMMITTEE DATE 2/28/95

BILL NO. SB 64 SPONSOR(S) Sen. Gage

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
GENE KISER	MBCC	✓	
Jim Oberhoffer	MT Chiefs of Police	✓	
MARY ELLERD	MUPOA	✓	
Ben Bakes	Dept of Justice	✓	
KATHY McGOWAN	CDPM, MSPOA	✓	
Bob Gilbert	MT Magistrates Assn	✓	
Steve Yeakel	MT Council for Maternal & Child Health	✓	
Marcia Armstrong	Dept. Corrections & Human Srv.	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993
wp:vissbcom.man
CS-14

REP. DEB KOTTEL supported the motion to remove the bill from the table because she thought they were confusing what happens when judges over sentence and what happens in an emergency situation in the middle of the night. She felt they needed to allow for this type of flexibility and hoped that it would not be misused to avoid dealing with the problem.

REP. CHRIS AHNER supported the motion to remove it from the table but asked that they postpone action until they had a chance to re-review the bill.

Vote: **The motion carried 10 - 5, REPS. WYATT, SHEA, MOLNAR, TREXLER and HURDLE voted no.**

EXECUTIVE ACTION ON SB 64

Motion: **REP. AHNER MOVED SB 64 BE CONCURRED IN.**

Discussion: **REP. ELLEN BERGMAN** asked for a review of the intent of the bill.

REP. HURDLE said it was to clear up the distinction between penalties for persons in possession of alcohol at ages 18 and 21. She said the Senate amended it so that they would treat adult juveniles differently than they would juveniles.

Motion: **REP. SHIELL ANDERSON MOVED TO AMEND SB 64. EXHIBIT 1**

Discussion: **John MacMaster** explained the need for the coordinating amendments for this bill with HB 429 and HB 551.

Vote: **The motion carried unanimously.**

Motion/Vote: **REP. MOLNAR MOVED SB 64 BE CONCURRED IN AS AMENDED. The motion carried unanimously.**

EXECUTIVE ACTION ON SB 113

Motion: **REP. AHNER MOVED SB 113 BE CONCURRED IN.**

Motion: **REP. WYATT MOVED TO AMEND SB 113 TO INCREASE THE FINE FOR THE FIRST OFFENSE ON LINE 16 TO NO LESS THAN $250 OR MORE THAN $500 AND LINE 18 CHANGE $350 TO $750 AND ON LINE 19 AND TO DOUBLE THE FINE TO $1,000.**

Discussion: **REP. WYATT** stated that the purpose of the amendment was to equalize the amount of punishment with the cost for the insurance.

REP. DEBBIE SHEA asked if they couldn't afford the insurance, how they would afford the fine.

HOUSE OF REPRESENTATIVES

Judiciary

ROLL CALL DATE 3/15/95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Clark, Chairman	✓		
Rep. Shiell Anderson, Vice Chair, Majority	✓		
Rep. Diana Wyatt, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Ellen Bergman	✓		
Rep. Bill Boharski			✓
Rep. Bill Carey	✓		
Rep. Aubyn Curtiss	✓		
Rep. Duane Grimes			✓
Rep. Joan Hurdle	✓		
Rep. Deb Kottel	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Brad Molnar	✓		
Rep. Debbie Shea	✓		
Rep. Liz Smith	✓ 8:30	✓	
Rep. Loren Soft	✓*		✓ * returned late in meeting
Rep. Bill Tash	✓		
Rep. Cliff Trexler	✓		

HOUSE STANDING COMMITTEE REPORT

March 15, 1995

Mr. Speaker: We, the committee on **Judiciary** report that **Senate Bill 64** (third reading copy -- blue) **be concurred in as amended.**

Signed: Bob Clark
Bob Clark, Chair

Carried by: Rep. Soft

And, that such amendments read:

1. Page 4, line 15.
Following: "~~shall~~"
Strike: "referred to in subsection (1) must"
Insert: "shall"

2. Page 4, line 18.
Following: "of the"
Insert: "sealed"
Following: "~~se~~"
Strike: "that have been sealed"

-END-

Committee Vote:
Yes 19, No 0.

601517SC.Hbk

EXHIBIT 1
DATE 3/15/95
SB 64

Amendments to Senate Bill No. 64
Third Reading Copy (blue)

For the Committee on Judiciary

Prepared by Valencia Lane
March 13, 1995

1. Page 4, line 15.
Following: "~~shall~~"
Strike: "referred to in subsection (1) must"
Insert: "shall"

2. Page 4, line 18.
Following: "of the"
Insert: "sealed"
Following: "~~so~~"
Strike: "that have been sealed"